

CHAPTER 57
VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES
FINANCIAL ASSISTANCE PROGRAM (VAAPFAP)

[Prior to 7/19/95, see 261—Ch 29]

261—57.1(15E) Purpose. The purpose of this program is to encourage the increased utilization of agricultural commodities produced in this state. The program shall assist in efforts to revitalize rural regions of this state by committing resources to provide financial assistance to new or existing value-added production facilities.

261—57.2(15E) Definitions.

“Agricultural biomass industry” means businesses that utilize agricultural commodity crops, agricultural by-products, or animal feedstock in the production of chemicals, protein products, or other high-value products.

“Agricultural biotechnology industry” means businesses that utilize scientifically enhanced plants or animals that can be raised by producers and used in the production of high-value products.

“Agricultural products advisory council” means the council composed of five members appointed by the secretary of agriculture and five members appointed by the director of the department of economic development who are experienced in marketing or exporting agricultural commodities or products, financing the export of agricultural commodities or products, or adding value to and the processing of agricultural products as further described in Iowa Code section 15.203.

“Agriculture” means the science, art, and business of cultivating the soil, producing crops and raising livestock.

“Alternative energy industry” includes businesses involved in the production of ethanol, including gasoline with a mixture of 70 percent or more ethanol, biodiesel, biomass, hydrogen, or in the production of wind energy.

“Committee” means the renewable fuels and coproducts advisory committee established pursuant to Iowa Code section 159A.4.

“Coordinator” means the administrative head of the office of renewable fuels and coproducts appointed by the department of agriculture and land stewardship as provided in Iowa Code section 159A.3.

“Coproduct” means a product other than a renewable fuel which at least in part is derived from the processing of agricultural commodities and which may include corn gluten feed, distillers grain, solubles, a feed supplement, or can be used as livestock feed.

“Department” or *“IDED”* means the Iowa department of economic development.

“Farming” means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Farming shall not include the production of timber, forest products, nursery products, or sod; and farming shall not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

“Fund” means the renewable fuels and coproducts fund established pursuant to Iowa Code section 159A.7.

“Innovative” means a new or different agricultural product or a method of processing agricultural products which is an improvement over traditional methods in a new, different, or unusual way.

“Livestock production operations” means the production, feeding and marketing of livestock, poultry and aquaculture. This includes, but is not limited to, beef and dairy cattle, swine, sheep, goat, poultry, turkey and equine operations. It also includes nontraditional agricultural operations such as ostrich, fallow deer, rabbit, fish and other aquaculture.

“Loan” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A deferred loan is one for which the payment of principal, interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.

“Loan guarantee” means a guarantee of all or part of a loan made by a commercial lender. Payment of all or a portion of the loan guarantee will occur if the business defaults on its repayment of the loan, provided that the lender has exhausted customary legal remedies in an attempt to secure repayment from the borrower. Customary legal remedies include, but are not limited to, collateral recovery and disposition, foreclosure proceedings, payment from a personal or corporate guarantee.

“Office” means the office of renewable fuels and coproducts created pursuant to Iowa Code section 159A.3.

Organic products means Iowa-grown or Iowa-raised agricultural products as defined by 21—Chapter 47, Iowa Organic Program.

“Person” means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

“Producer-owned, value-added business” means a person who holds an equity interest in the agricultural business and is personally involved in the production of crops or livestock on a regular, continuous, and substantial basis.

“Renewable fuel” means an energy source at least in part derived from an organic compound, capable of powering machinery, including an engine or power plant. A renewable fuel includes but is not limited to ethanol-blended or soydiesel fuel.

“Renewable fuels and coproducts activities” means either of the following:

1. The research, development, production, promotion, marketing, or consumption of renewable fuels and coproducts.
2. The research, development, transfer, or use of technologies which directly or indirectly increases the supply or demand of renewable fuels and coproducts.

“Rural region” means any geographic area which is predominantly rural in nature, that is, having a relatively low population density and where agriculture is the predominant economic activity.

“Soydiesel fuel” means a fuel made of processed soybean oil which is mixed with diesel fuel, the mixture being a minimum of 20 percent processed soybean oil.

“VAAPFAP” means the value-added agricultural products and processes financial assistance program.

“Value-added product” means a product, which through a series of activities or processes, can be sold at a higher price than its original purchase price.

261—57.3(15E) General eligibility. A person is eligible to apply for assistance under this program if the following requirements are met:

1. The existing or proposed facility is located in this state.
2. The person applies to the department of economic development in a manner and according to procedures required by the department.
3. The person submits a business plan which demonstrates managerial and technical expertise.

261—57.4(15E) Program components and eligibility requirements. There will be six components to the VAAPFAP program. For program components described in subrules 57.4(1) through 57.4(4), the department shall prefer producer-owned, value-added businesses, education of producers and management boards in value-added businesses, and other activities that would support the infrastructure in the development of value-added agriculture, and public and private joint ventures involving an institution of higher learning under the control of the state board of regents or a private college or university to acquire assets, research facilities, and leverage moneys in a manner that meets the goals of the grow Iowa values fund. The component(s) include the following:

57.4(1) Innovative agricultural products and processes component. An application based on this component shall be considered if either of the following applies:

a. The business will produce a product derived from an agricultural commodity, if the product is not commonly produced in Iowa from an agricultural commodity; or

b. The business will utilize a process to produce a product derived from an agricultural commodity, if the process is not commonly used in Iowa to produce the product.

For purposes of this subrule, a product is “not commonly produced” and a process is “not commonly used” if the product or process is not usually, generally, or ordinarily produced or processed in Iowa.

57.4(2) Renewable fuel component. Applications for renewable fuel and ethanol production shall be considered by the department for funding. Applications based on ethanol fuel production must meet the following criteria to be considered for funding:

a. All fermentation, distillation, and dehydration of the ethanol occurs at the proposed facility.

b. The ethanol produced at the proposed facility is at least 190 proof and is denatured. However, if the facility markets the ethanol for further refining, the facility must demonstrate that the refiner produces at least 190 proof ethanol from the ethanol purchased from the facility.

57.4(3) Agricultural biotechnology, biomass and alternative energy component. Agricultural business facilities in the agricultural biotechnology industry, agricultural biomass industry, and alternative energy industry are eligible to submit applications.

57.4(4) Organic and emerging markets component. Facilities that add value to Iowa agricultural commodities through further processing and development of organic products and emerging markets are eligible for program assistance.

57.4(5) Project development assistance. The department, at its discretion, may also provide funding for project development related to proposed projects under this program. Project development assistance could be for the purpose of assisting in departmental evaluation of proposals, or could be one of the proposed activities in a funding request whose further project development could reasonably be expected to lead to a VAAPFAP-eligible commercial enterprise. Feasibility studies and basic research are not eligible for assistance under this program.

57.4(6) Project creation assistance. This component is for projects that eventually could be eligible for funding within the other VAAPFAP components. Periodically, a request for proposal (RFP) will be issued based on strategic initiatives developed by the department in consultation with relevant agricultural groups and advisors. The RFP will describe the desired outcome of the proposed effort. The desired outcome could be a new and innovative product, new processing or marketing techniques, or new forms of business operation or collaboration. These efforts could include:

a. Projects that can show need for special financial assistance to engage participation of expertise needed from sources external to the business sponsor of the project.

b. Endeavors where there is a need for financial assistance to plan and organize business consortia or joint ventures among firms or to support costs of special services to be acquired from university or other sources.

c. Situations where there is a need to provide matching funds to businesses to enter competition for federal research and development grants.

261—57.5(15E) Ineligible projects.

57.5(1) The department shall not provide financial assistance to support a value-added production facility if the facility or a person owning a controlling interest in the facility has demonstrated, within the most recent consecutive three-year period prior to application, a continuous and flagrant disregard for the health and safety of its employees or the quality of the environment. Violations of environmental protection statutes, rules or regulations shall be reported for the most recent five-year period prior to application. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of employment services pursuant to Iowa Code chapter 84A, or rules enforced by the environmental protection division of the department of natural resources pursuant to Iowa Code chapter 455B.

57.5(2) The department shall not approve an application for assistance under this program to re-finance an existing loan.

57.5(3) The department shall not directly award financial assistance to support an activity directly related to farming as defined in Iowa Code section 9H.1, including the establishment or operation of a livestock production operation, regardless of whether the activity is related to a renewable fuel production facility.

57.5(4) An applicant may not receive more than one award under this program for a single project. However, previously funded projects may receive an additional award(s) if the applicant demonstrates that the funding is to be used for a significant expansion of the project, a new project, or a project which results from previous project development assistance.

57.5(5) The department shall not approve an application for assistance in which VAAPFAP funding would constitute more than 50 percent of the total project costs.

261—57.6(15E) Awards.

57.6(1) Form. Financial assistance awarded under this program may be in the form of a loan, forgivable loan, deferred loan, grant, or a combination thereof. The department shall not award more than 25 percent of the amount allocated to the value-added agricultural products and processes financial assistance fund during any state fiscal year to support a single person. The department may finance any size of facility. However, the department may reserve up to 50 percent of the total amount allocated to the fund for purposes of assisting persons requiring \$500,000 or less in financial assistance. The amount shall be reserved until the end of the third quarter of the state fiscal year and may then become available for other projects.

57.6(2) Amount.

a. Grants, forgivable loans, and loans shall be awarded on the basis of the impact of the project and the degree to which the project meets the goals of the program.

b. The department reserves the right to negotiate the amount, term payback amount, and other conditions of an award.

261—57.7(15E) Application procedure. Application materials may be obtained from the IDED Bureau of Business Finance, 200 East Grand Avenue, Des Moines, Iowa 50309, telephone (515)242-4819. A comprehensive business plan must accompany the application and shall include at least the following:

1. Marketing plan for the project;
2. Project budget and status of alternative financing (if applicable);
3. Production operations;
4. Management structure;

5. Personnel needs;
6. Description of product, process or practice;
7. Status of product/service development; and
8. Patent status (if applicable).

261—57.8(15E) Review process. Subject to availability of funds, applications are reviewed and rated by IDED staff on an ongoing basis. Applications will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. If the applicant had previously consulted with the coordinator in completion of the application, the department may refer the application to the coordinator for further feasibility studies if deemed necessary. Notice of such referral shall simultaneously be mailed to the applicant. The IDED staff may refer viable applications for project development assistance. The applicant shall then have three weeks from the date of the IDED letter to submit the requested information. Applications will also be reviewed by the agricultural products advisory council on a regular basis. Recommendations from the IDED staff will be submitted to the director of the department for final approval, denial or deferral. Applicants shall be notified in writing within one week following the department's final action.

The department may consult with other state agencies regarding any possible future environmental, health, or safety issues linked to technology related to the biotechnology industry.

The department reserves the right to informally consult with external resources to assist in the evaluation of projects or to contract with outside consultants, in an amount not to exceed \$20,000 per project, for the same purpose.

261—57.9(15E) Deferral process. If all additional information requested is received within the three-week time frame, the application will be considered as soon as practicable thereafter. If information is not received in a timely manner, consideration will be delayed. If the department's request for additional information is not answered within 60 days of the date of the request, the application will be denied.

261—57.10(15E) Evaluation and rating criteria. The IDED staff shall evaluate and rank applications based on the following criteria:

57.10(1) For the innovative products and processes component:

a. Feasibility (0-25 points). The feasibility of the existing or proposed facility, process, or operation to remain a viable enterprise. Rating factors for this criterion include, but are not limited to, the following: initial capitalization, project budget, financial projections, marketing analysis, marketing plan, management team, and production plan. In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

b. Priority components (0-25 points). The degree to which the proposed project meets one of the four primary program components which include:

1. Innovative agricultural products and processes.
2. Renewable fuels.
3. Agricultural biotechnology, agricultural biomass, and alternative energy.
4. Organic products and emerging markets.

In order to be eligible for funding, proposals must score at least 15 points in the program component under which the applicant is eligible.

c. Utilization (0-25 points). The degree to which the facility will add value to and increase the utilization of agricultural commodities produced in this state. In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

d. Producer ownership (0-15 points). The level of producer ownership will be given additional consideration.

e. The extent to which the existing or proposed facility is located in a rural region of the state (0-10 points).

f. The proportion of local match to be contributed to the project (0-5 points).

g. The level of need of the region where the existing facility is or the proposed facility is to be located (0-5 points). More points are awarded to those projects which exhibit greater need as measured by factors including, but not limited to, the following: regional unemployment rate, poverty level, or other measures of regional fiscal distress.

h. The degree to which the facility produces a coproduct which is marketed in the same locality as the facility (0-5 points).

A minimum score of 65 points is needed for a project to be recommended for funding.

57.10(2) For the project creation assistance component:

a. Any person is eligible to apply except educational or research institutions. However, an educational or research institution may be a partner to an eligible applicant.

b. The evaluation process will focus on the application of new technology and knowledge to agricultural processing and will be based upon the degree to which:

(1) The resulting business has potential to increase the utilization of agricultural commodities in Iowa; and

(2) The resulting business increases value-added economic activities (for example, facilities or employment) within the state of Iowa.

261—57.11(15E) Negotiation and award. The department reserves the right to negotiate the amount, term, interest rate, and other conditions of the loan or grant prior to the award, subject to rule 261—57.6(15E).

261—57.12(15E) Award process. Upon approval by the director, the applicant business will receive an award letter which shall state the amount of award, conditions of the award, any security agreements, and the amount of monthly loan repayments, if applicable.

261—57.13(15E) Contract. Following notification of award, a contract will be prepared for execution between the applicant business owner and IDIED. Business owners are subject to credit checks at this time. If judgments, federal tax liens, or state liens are found and not remedied within the time period required by the department, funding may be denied. After execution of the contract, the business owner may request disbursement of funds on the form(s) prescribed by IDIED.

261—57.14(15E) Administration.

57.14(1) Access to records. The department, at any and all reasonable times, during the term of the agreement with the business may enter the business during the course of, or following, the completion of the project for any purpose arising from the performance of the contracted project. The business shall make all books, papers, records and accounts of the company open and available for inspection and audit by the department or its representatives at any and all reasonable times.

57.14(2) Waiver. The department may waive or vary particular provisions of these rules to conform to requirements of the federal government in connection with a loan with respect to which federal assistance, insurance, or guaranty is sought, provided the waiver does not conflict with applicable state laws.

57.14(3) Repayment of loans. Payments are due on the first day of each month that payments are due. Late fees may be charged for payments received after the tenth day following the due date.

261—57.15(15E) Default. When a loan is in default for a period of 60 days, the department may notify the office of the attorney general and recommend appropriate action or refer the account to other collection procedures deemed appropriate by the department.

These rules are intended to implement Iowa Code sections 15E.111 and 15E.112.

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